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**PACIFIC**  **TELESIS**  
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January 11, 1996

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FEDERAL COMMUNICATIONS COMMISSION  
OF

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
1919 M Street, NW, Room 222  
Washington, DC 20554

Dear Mr. Caton:

Re: *PR Docket No. 92-235 - Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services*

On behalf of Pacific Bell, please find enclosed an original and six copies of its "Reply Comments" in the above proceeding.

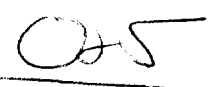
Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



Enclosure

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Before the  
FEDERAL COMMUNICATIONS COMMISSION **RECEIVED**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

Replacement of Part 90 by Part 88 to  
Revise the Private Land Mobile Radio  
Services and Modify the Policies  
Governing Them

and

Examination of Exclusivity and  
Frequency Assignment Policies of  
the Private Land Mobile Radio Services

PR Docket No. 92-235

**REPLY COMMENTS OF PACIFIC BELL**

Pacific Bell submits this reply to comments filed on November 20, 1995 in response to the Further Notice of Proposed Rulemaking, released on June 23, 1995 in the above-captioned proceeding.<sup>1</sup> Commentors responded to the Commission's tentative conclusions on competitive bidding, user fees, resale and consolidation of user groups. In this reply, we support commentors who recommend

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<sup>1</sup> Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services, PR Docket No. 92-235, Report and Order and Further Notice of Proposed Rulemaking, FCC 95-255 (rel. June 23, 1995) ("FNPRM").

consolidating users based on the criticality of users' functions. We also comment on the resale of excess capacity.

I. Private Radio Service Licensees Must Be Permitted To Meet Their Own Specialized Communications Needs

The Commission recognizes that many licensees have special communications needs.<sup>2</sup> We agree with the commentators that urge the Commission to maintain the private radio service. Eliminating the private radio service to encourage commercial mobile radio service (CMRS) providers would be shortsighted and inefficient. Third-party commercial carriers are unlikely to be willing or able to satisfy the specialized needs of the many diverse private radio users. Moreover, private radio licensees should not have to rely on CMRS providers to satisfy their internal communications needs.

The Telephone Maintenance Radio Service (TMRS) is part of the Industrial Radio Services category. TMRS is used in the construction, repair, and maintenance of our common carrier telecommunications facilities. We use TMRS to communicate with our field personnel, for example, in dispatching crews for routine maintenance or to respond to emergency repairs. We also use TMRS for internal company communications.

Our facilities are located throughout California, in densely and sparsely populated areas, and in remote areas. We have approximately 13,000

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<sup>2</sup> FNPRM, para. 2.

mobile units that assist in maintaining our telephone facilities. Given our geographic diversity and the critical need to maintain essential telecommunication facilities, it is highly unlikely that CMRS providers would be willing or able to provide all the specialized services we would require or provide them as efficiently as we do ourselves. The Commission must permit us to continue to provide for our own private mobile radio needs.

II. Consolidating Users According To The Criticality Of Their Services Promotes Spectral Efficiency

We agree with the Commission's recommendation to consolidate the twenty PLMR radio services into a much smaller number of user groups.<sup>3</sup>

Commentors propose several alternative plans. We support the three-service proposal urged by UTC<sup>4</sup> with several important changes.

UTC proposes an Emergency Response service, consisting of police, fire and emergency medical services; a Public Service category, including services that provide logistical functions in support of the general population, such as public utility services; and a Business/Commercial category for all other private radio users.<sup>5</sup>

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<sup>3</sup> FNPRM, para. 52.

<sup>4</sup> Comments of UTC, The Telecommunications Association, dated November 20, 1995, p. iii.

<sup>5</sup> Id., p. iii.

We support this categorization because it recognizes the importance of emergency and utility functions in promoting the public well-being. By grouping services in this manner, users providing critical or essential services will have ready access to channels.

The Public Service category, however, should be expanded to include local exchange telephone service providers in addition to electric, water and gas utilities. The ability to communicate is essential, whether during an emergency or day-to-day. We meet the characteristics described by UTC for Public Service users. Our service provides critical logistical functions in support of the general population.<sup>6</sup> We are subject to both state and federal regulators as a common carrier. We are required by law to provide service in our service area in a safe, continuous and cost-effective manner. We are the providers of last resort for local telecommunications. Our response time in emergencies is evaluated by both state and federal regulators and a delay in our response can further affect existing threats to life or property. The public views us as a critical service, especially during emergencies.

Although UTC did not include local exchange telephone service carriers in the Public Service category, its comments demonstrate the criticality of telecommunication services. UTC recognized that the Telecommunications Service Priority (TSP) System for National Security Emergency Preparedness is a national policy that prioritizes the provisioning and or restoration of telecommunications

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<sup>6</sup> Id., p. 29.

circuits in the event of general service disruption.<sup>7</sup> Local exchange telephone companies obviously play a critical role in providing vital public services by participating in restoral efforts.

### III. Licensees That Resell Excess Capacity Must Be Distinguishable From Private Users

Along with other commentors, we have strong reservations about the resale of excess PLMR capacity.<sup>8</sup> We agree with the Boeing Company that the right to resell capacity defeats the Commission's ultimate goal of ensuring its ability to meet the present and future needs of PLMR licensees.<sup>9</sup> We have previously said we were concerned that permitting a licensee to provide both private services and commercial mobile services would be an administrative nightmare for the Commission.<sup>10</sup> The Commission would have to determine how to apply the appropriate regulatory framework to a dual-use licensee. For example, CMRS rules must be applied to the percentage of the carrier's mobile service which the Commission would designate as the leased excess capacity and PLMR rules to the percentage which is designated as private.

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<sup>7</sup> Id., p. 8.

<sup>8</sup> Union Pacific & Missouri Pacific Railroad Companies, p. 13; Assn. of American Railroads, p. 36.; American Petroleum Institute, p. 12; Weyerhaeuser Company, p. 5; Land Mobile Communications Council, p. 18.

<sup>9</sup> The Boeing Company, pp. 6-8.

<sup>10</sup> Comments of Pacific Bell Mobile Services, dated September 15, 1995.


As we previously stated in our comments, to ensure regulatory parity, regulations need to create a bright line.<sup>11</sup> The best way to do this is to prohibit the offering of commercial and private radio services under the same license.

IV. Conclusion

We commend the Commission for its continued efforts to promote effective and efficient use of the PLMR spectrum while facilitating the introduction of advanced technologies into the private mobile services. We believe the recommendations above will assist the Commission's efforts.

Respectfully submitted,

PACIFIC BELL

  
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Its Attorneys

Date: January 11, 1996

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<sup>11</sup> Id., p. 2.

**CERTIFICATE OF SERVICE**

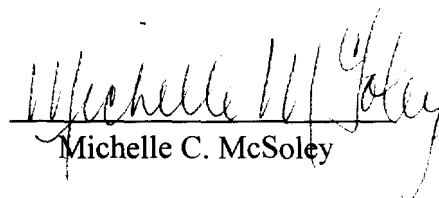
I, Michelle C. McSoley, do hereby certify that on this 11th day of January, 1996, a copy of the foregoing "**REPLY COMMENTS OF PACIFIC BELL**" regarding PR Docket No. 92-235 was served by hand delivery to the following:

**Federal Communications Commission**

Ralph A. Haller, Deputy Chief  
Wireless Telecommunications Bureau  
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Washington, DC 20554

**ITS, Inc.**

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Room 246  
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Michelle C. McSoley

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